

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4928 of 1984

with

CIVIL APPLICATION No 5919 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ASSOCIATION OF ASSISTANT ENGINEERS (MECHANICAL)

Versus

STATE OF GUJARAT

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Appearance:

MR PV HATHI for Petitioners

MS SIDDHI TALATI for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/10/97

#### C.A.V. JUDGEMENT

1. This special civil application has been filed by the Association of Assistant Engineers (Mechanical) and three other Engineers and prayer has been made by them for direction to the respondents to revise their pay scale at par with the pay scale of other Class II Gazetted Officers and other non-Gazetted Officers similarly situated who draw higher pay scale with effect

from 1-1-1973. Next prayer has been made for the direction to the respondents to revise the pay scale of Assistant Engineers (Mechanical) to Rs.650-1200 ( with starting pay of Rs.700/- per month) with effect from 1-1-1973.

2. In civil application, the prayer has been made for amendment of the special civil application. By this proposed amendment, the petitioners want to bring on record certain facts, and as such, I do not consider it to be necessary to grant the amendment. These facts which have been stated can be taken into consideration while deciding this matter without amendment of the special civil application.

3. One of the important facts which is sought to be brought on record is that under the resolution of the Government dated 17th July, 1984, subordinate Foremen were given the same pay scale of Rs.550-900 with effect from 1-10-1978 in pursuance of the direction of this Court in the writ petition filed by those class of persons.

4. Considering it to be a case of pay anomaly, the Government vide its notification dated 20th March, 1991, revised the pay scale to Rs.650-1200, but it was given effect from 1-1-1986 instead of Rs.1-1-1973. In view of the aforesaid notification of the Government, part of the grievance of the petitioners of giving them the pay scale of Rs.650-1200 from 1-1-1973 has been removed.

5. Another grievance of the petitioners that the pay scale of the subordinate Foreman has been brought at par with them from 1-10-1978 is also now not of much substance as their pay scale has been made higher than the pay scale of Rs.550-900. However, the grievance of the petitioners of giving them the pay scale of Rs.650-1200 may not be acceptable from 1-1-1973. This pay scale should have been given to them from 1-10-1978, the date on which their subordinates were given the pay scale of Rs.550-900. The subordinate Foremen who are even not having the Diploma qualification but this Court has accepted their claim of pay scale of Rs.550-900 then certainly the pay scale of the petitioners who are Degree holders should have been higher than the pay scale of Rs.550-900. The respondents have taken a distinction with respect to qualifications for the pay scales from 1-8-1962 and Assistant Engineers - Degree holders were given two scales higher than non-qualified Foremen and that should have been kept in mind but those have been brought at the level of Assistant Engineers whereas the

the scale of the Assistant Engineers has been revised, but it was given effect from 1-1-1986. Prima-facie I find sufficient justification in the claim of the petitioners for the revision of pay two steps higher than the pay scale of Foremen - unqualified persons. Their pay should have been fixed with reference to the pay scale of the Diploma holders i.e. Additional Assistant Engineers but in their case while dealing with another petition I found that their pay scale has been fixed lower than that of Foremen - unqualified persons at one point of time. So the case of these Assistant Engineers Degree holders of fixing of their pay scale higher than the pay scale of Rs.550-900 from 1-10-1978 deserves consideration. While considering this matter, the State has to keep in mind the difference which has been maintained with reference to qualification in the pay scale. Even from the year 1962 that difference has been consistently and continuously maintained but subsequently that difference has been made go by by giving the benefits to the class of persons who are treated as unqualified.

6. Taking into consideration the totality of the facts of this case, this special civil application is disposed of with the direction to the respondent-State to decide the claim of the petitioners for the pay scale higher than Rs.550-900 keeping in mind that this class of persons were given pay scale two steps above the pay scale of Foremen - unqualified persons in the year 1962 itself and that distinction was maintained on 1-4-1967 and 1-1-1973 and with reference to the fact that they were given the higher pay scale than the Diploma holders also. The matter has to be examined - whether taking into consideration the totality of the facts of this case prescribing of pay scale of Rs.650-1200 for Assistant Engineers and decision of this Court in the case of Foremen, be said to be reasonable and justified. Even if this pay scale is taken to be justified then next question which calls for consideration is that whether it could have been given effect from 1-1-1986 or 1-10-1978. This exercise has to be undertaken by the respondents and completed within a period of six months from the date of receipt of writ of this order and in case the respondents accept that the pay scale higher than Rs.650-1200 should be given to the Degree holders then the next question has to be considered that it should be given from which date and arrears of fixation should be determined within two months and arrears so determined should be paid within one month next. Further consideration has to be taken that when the non-qualified persons were given the pay scale of Rs.550-900 from 1-10-1978 how far the order of

the respondent to give the higher pay scale to the Degree holders from 1-1-1986 stand to any logic and rationality. In case the claim of the petitioners is not accepted then a reasoned order may be passed and copy of which may be sent to the petitioners by registered post. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs. No order on civil application. Liberty to the petitioners for revival of this special civil application in case of difficulty.

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